

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:13-CV-625-RJC-DCK**

LC AMERICA, INC.,

Plaintiff,

v.

NIRVANA SPECIALTY FOODS, INC.,

Defendant.

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ORDER

THIS MATTER IS BEFORE THE COURT on “Defendant’s Unopposed Motion For Extension Of Time To Brief Its Motions To Dismiss” (Document No. 5) filed November 19, 2013. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will deny the motion.

“Defendant’s Motion to Dismiss and Answer to Plaintiff’s Complaint” (Document No. 3) was filed on November 14, 2013. According to the Local Rules,

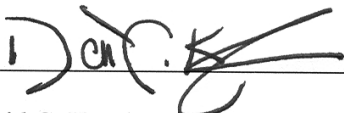
Motions to dismiss contained in answers to complaints, replies to counterclaims, or answers to cross claims are considered by the Court to be preserved. A party wishing to have decided any preserved motion shall file a separate motion and supporting brief.

See Local Rule 7.1 (C)(1); see also, Local Rule 16.1 (D). Based on the foregoing, the undersigned finds that Defendant has failed to file a proper motion to dismiss in accordance with the Local Rules, and therefore, the request for additional time to file a brief in support should be denied. Such denial is without prejudice to Plaintiff filing a proper motion and supporting brief in accordance with Local Rule 7.1.

IT IS, THEREFORE, ORDERED that “Defendant’s Unopposed Motion For Extension Of Time To Brief Its Motions To Dismiss” (Document No. 5) is **DENIED**.

The Clerk of Court is directed to revise the civil docket for this case consistent with this Order and to term Document No. 3 as a pending motion.

Signed: November 19, 2013



David C. Keesler
United States Magistrate Judge

